MODERN DIALOGUE BETWEEN DOCTOR AND STUDENT ON THE DISTINCTION BETWEEN VESTED AND CONTINGENT REMAINDERS. *Albert Martin Kales.* 24 L. Quar. Rev. 301.

MORAL DUTY TO AID OTHERS AS A BASIS OF TORT LIABILITY, THE. II. *Francis H. Bolen.* 56 U. P. L. Rev. 316.

MUNICIPAL GOVERNMENT BY COMMISSION. *W. H. Moore.* Maintaining that municipal government reform is preferable to government by commission. 28 Can. L. T. & Rev. 336.

NEGLIGENCE UNDER THE EMPLOYERS' LIABILITY ACT. *Raymond D. Thurber.* A discussion of the law in New York. 13 Bench & Bar 17.

NEW FEDERAL EMPLOYERS' LIABILITY ACT, THE. *Theodor Megaarden.* Comparing text of act of 1908 with that of act of 1906. 12 L. N. (Northport) 44. See 22 HARV. L. REV. 38.

OKLAHOMA CONSTITUTION, THE. *John Bell Sanborn.* 42 Am. L. Rev. 362; 31 N. J. L. J. 196.

PASS-BOOK AND FORGERY. *W. F. Chipman.* Discussing whether a depositor's failure to notify bank of its acceptance of forged cheque absolves the bank from liability. 28 Can. L. T. 527.

PRESENT PRACTICE WITH RESPECT TO DEFECTIVE TRANSFERS OF STOCK OR SHARES. *N. G. Pilcher.* Pointing out the confusion of present conditions. 5 Com. L. Rev. 152.

PREVENTION OF CRIME, THE. *Marcus Dods.* Advocating indeterminate sentences. 20 Jurid. Rev. 160.

PROBLEM IN THE ILLINOIS LAW OF DESCENT, A. *Albert M. Kales.* 3 Ill. L. Rev. 74.

RECENT EUROPEAN LEGISLATION WITH REGARD TO COMPENSATION FOR INDUSTRIAL ACCIDENTS. *Kenelm E. Digby.* 17 Yale L. J. 485.

SANCTION OF INTERNATIONAL LAW, THE. *Elihu Root.* Maintaining that international law is based on public opinion. 2 Am. J. of Int. L. 451; 53 Ohio L. Bul. 332.

SCIENCE OF INTERNATIONAL LAW, THE: ITS TASK AND METHOD. *L. Oppenheim.* 2 Am. J. of Int. L. 313.

SCIENTIFIC ASPECT OF DUE PROCESS OF LAW AND CONSTRUCTIVE CRIMES, THE. *Theodore Schroeder.* Arguing that too much attention may be paid to judicial decisions and too little to justice. 42 Am. L. Rev. 369.

SPECIFICATION OF THE ABUSES OF THE CONTINGENT FEE, A. From the report of the Committee on Contingent Fees of the New York State Bar Association. 12 L. N. (Northport) 68.

STATUS OF ENEMY MERCHANT SHIPS. *James Brown Scott.* 2 Am. J. of Int. L. 259.

SUBSTITUTE FOR A CENTRAL BANK, A. *Newton D. Alling.* Maintaining that a central bank is neither necessary nor desirable. 25 Bank. L. J. 251.

UNIFORM LAWS BY INTERSTATE COMPACT. *Ben W. Jonnson.* 6 Oh. L. Rep. 208.

UNION LABELS. *W. A. Martin.* A discussion of what protection from infringement should be accorded union labels. 42 Am. L. Rev. 511.

USE OF SUBMARINE MINES AND TORPEDOES IN TIME OF WAR, THE. *C. H. Stockton.* A discussion of the rules adopted at the Hague Conference. 2 Am. J. of Int. L. 276.

WHAT CONSTITUTES THE "END" OF A WILL. *Anon.* 53 Oh. L. Bull. 137.

WHAT PERSONS ARE WITHIN THE PURVIEW OF STATUTES AFFECTING THE ENFORCEMENT OF CLAIMS FOR SERVICES. *C. B. Labatt.* 44 Can. L. J. 369.

WRIT OF HABEAS CORPUS, THE. *Clarence C. Crawford.* An historical treatment of the subject. 42 Am. L. Rev. 481; 125 L. T. 400, 420.

II. BOOK REVIEWS.

THE LAW OF TORTS. By John W. Salmond. London: Stevens and Haynes. 1907. pp. xxviii, 507. 8vo.

The writer of this work is a New Zealand barrister, formerly a Professor of Law in the University of Adelaide, South Australia, and already favorably known as an author through his treatise on Jurisprudence, previously noticed in these pages.[1]

[1] 16 HARV. L. REV. 315.

This work on Torts is worthy to be placed on the same shelf with Pollock or Clerk & Lindsell. It has the great merits of condensation and clearness, — two qualities which are apt to go together. The author has done his own thinking, and, as a general rule, has expressed his thoughts in his own words. But there is no striving after new or odd ways of "putting things," no love of novelty for its own sake. No difficulties are evaded. Indeed, the author does not content himself with examining questions which have already come before the English courts. He anticipates and discusses questions which are likely to arise. It is interesting to note that in at least two instances his prophecies accord with decisions given in the United States.

Mr. Salmond follows up his general statements and definitions with specific applications and illustrations, so carefully framed that little room is left for misapprehension as to the meaning of his general propositions. A good example is found in his examination of the respective functions of the judge and jury in relation to the question of probable cause in actions for malicious prosecution (pp. 460–461), and also as to proof of negligence (pp. 26–28).

For instances of clearness and condensation reference may be made to a paragraph of ten lines on the question whether a father may be held liable for the torts of his children (p. 60); a single page on "Lunacy as a Defence in an Action of Tort" (p. 61); and five pages discussing all the considerations which must be taken into account in determining when a civil action for damages can be maintained for a breach of statutory duties (pp. 472–477).

Under the head of "The Rule in Davies *v.* Mann" there is a valuable discussion as to the necessity of showing, in order to hold a defendant, that he "either knew or ought to have known of the danger created by the prior negligence of the plaintiff." Whether one agrees or disagrees with the author's results as to various of his illustrations on pages 39 and 40, it must be admitted that those illustrations present vital problems.

While Mr. Salmond does not hesitate to criticise some established doctrines, he takes care to state distinctly what the existing law is before he considers what it ought to be. See, for example, p. 416.

A few scattered extracts may give some idea of his general style:

"In the proposition that an action of deceit will lie only for a statement of fact, the term fact is used to include everything except a promise" (p. 419).

". . . wager of law, a form of licensed perjury which reduced to impotence all proceedings in which it was allowable" (p. 286).

As to judgment in trover for the value of the goods, followed by satisfaction: "It is in effect a compulsory purchase of the goods by the defendant" (p. 329).

"Mere negligence in the making of false statements is not actionable either as deceit or as any other kind of tort. This is the anomalous rule established by the House of Lords in the leading case of Derry *v.* Peek. Although in almost all other forms of human action a man is bound to take reasonable care not to do harm to others, this duty does not extend to the making of statements on which other persons are intended to act" (pp. 419, 420).[1]

"It is sometimes said that a person is presumed in law to intend the natural and probable results of his acts. . . . Such a form of statement, however, is useless and misleading. So far as it is true at all, it is simply an improper way of saying that a person is responsible for the natural and probable consequences of his acts, whether he intended them or not" (p. 104, note 3).

In classification and nomenclature the author generally follows ordinary usage, but some exceptions may be noted:

(1) At the close of the book he has a chapter entitled "Residuary Forms of Injury," a sort of sink into which are thrown the sub-titles which did not fit in under any of the ordinary leading divisions.

(2) He has inserted as a separate title "Injurious Falsehood," which he carefully distinguishes from deceit on the one hand and defamation on the

[1] *Cf.* Pollock, Torts, 8 ed., 293, note *a*; Bigelow, Torts, 7 ed., 68, 69; 14 HARV. L. REV. 184.

other (see pp. 417, 382, 426). It is apparent that some specific title of this sort must be introduced into the law, unless Mr. Bishop's class of "Unnamed Wrongs" is to cover a very wide field.

(3) As to assault, battery, and kindred topics.

Here are two difficulties. One is, that the terms "assault" and "battery" are often used interchangeably. What is strictly assault is denominated battery, and *vice versâ:* and this results in confusion of legal ideas. The other is, that there are actionable violations of the right of personal immunity which do not fall within the ordinary legal definitions of either assault or battery.

Mr. Salmond meets these difficulties: first, by using one term "assault" to cover all the kinds of injuries heretofore classified separately as assaults or as batteries; and, second, by introducing a new title, "Bodily Harm" (pp. 337–349). Under the latter title he includes (*inter alia*) physical harm inflicted negligently, and "illness due to mere nervous shock." Under the former title he begins by defining assault in language heretofore generally used to describe battery; viz., "the intentional application of force to the person of another without lawful justification." Then the species of actionable tort heretofore generally defined as assault he virtually describes as an attempt to commit an assault; using "assault" in the sense of his own previous definition. Mr. Bishop once suggested the possibility of using battery, not assault, as the one general term in criminal law. His plan was: Define battery according to the old usage; then define assault as "any indictable attempt to commit a battery."[1]

Probably no two lawyers would agree on all questions in the law of torts. From our standpoint some of Mr. Salmond's views are disputable. We should not concur in his criticism of Fouldes *v.* Willoughby (p. 293, note 25). We should differ widely from him as to Legal Cause, a topic which he treats of (pp. 103 *et seq.*) under the head of Remoteness of Damage, and upon which he is supported by the high authority of Sir Frederick Pollock. But his discussions, even though they may not invariably convince the reader, are always thoughtful and stimulating. J. S.

THE LAWS OF ENGLAND. By the Right Honorable the Earl of Halsbury and other lawyers. In about 20 volumes. Vol. I: Action to Bankers and Banking. London: Butterworth & Co. Philadelphia: Cromarty Law Book Company. 1907. pp. ccxviii, 647 (68). 8vo. Vol. II: Bankruptcy to Bills of Exchange. 1908. pp. clviii, 580 (54).

The projectors of this *magnum opus* describe it on the titlepage as "A complete statement of the whole Law of England." The work is not an encyclopedia, after the manner of the English Encyclopedia of Law or the American and English Encyclopedia of Law. In the former there are one hundred and forty-two principal articles, and in the latter seventy-six articles, under the letter A and the letter B as far as the title Bills of Exchange, whereas in the first two volumes of Lord Halsbury's work there are but seventeen articles. Nor is this work a digest of the law arranged upon a scientific classification of the branches of the law. This "complete statement" of the law is to be contained in a collection of treatises, arranged alphabetically, upon the main divisions of the law. Volume I deals with Action, Admiralty, Agency, Agriculture, Aliens, Allotments, Animals, Arbitration, Auction, Bailment, and Bankers and Banking. Vol. II contains but four treatises, upon Bankruptcy and Insolvency (355 pages); Barristers (67 pages); Bastardy (28 pages); and Bills of Exchange, Promissory Notes and Negotiable Instruments (124 pages).

In the execution of this novel and comprehensive plan excellent judgment has been exercised in the selection, as writers of the treatises, of men who have already made their mark as authors, or as expert practitioners, in special branches of the law.

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[1] 2 Bishop, New Crim. Law, § 23, note 1.